

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

In the specification, paragraphs have been amended on page 1.

Claim 40 is requested to be cancelled.

Claims 38 and 41 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 29-39 and 41-48 are now pending in this application.

The Examiner asserted that the Information Disclosure Statement filed on March 15, 2004 did not comply with 37 C.F.R. § 1.98(a)(2) for failing to include a legible copy of the non-patent literature listed on page 2 of the statement. In response to this objection, Applicant respectfully notes that these documents were presented in an Information Disclosure Statement in the parent U.S. application No. 09/769,683, and all of these references are listed on corresponding issued U.S. Patent No. 6,722,051. According to 37 C.F.R. § 1.99(d), an applicant is not required to submit a previously-submitted reference if (1) the earlier application was properly identified in the Information Disclosure Statement and is relied on for an earlier effective filing date under 35 U.S.C. § 120; and (2) the Information Disclosure Statement submitted in the earlier application complies with 37 C.F.R. § 1.98 (a)-(c). In this case, the March 11, 2004 Information Disclosure Statement clearly identified U.S. application No. 09/769,683 on page 1 of the document, and priority to this application was properly claimed. Furthermore, these references were submitted in an Information Disclosure Statement that was in

full compliance with 37 C.F.R. § 1.98. For these reasons, Applicant respectfully submits that the Examiner's objection to the Information Disclosure Statement was improper, and Applicant respectfully requests that each of the references-at-issue be considered at this time.

The Examiner objected to claim 38 due to the lack of antecedent basis of the term "the storage compartment." In response to this objection, claim 38 has been amended to correct this issue.

The Examiner rejected claim 40 under 35 U.S.C. § 101 as claiming the same subject matter as claim 27 of prior U.S. Patent No. 6,722,051 (the '051 patent). In response to this rejection, Applicant has cancelled claim 40 and amended dependent claim 41 to be in independent form and to include all of the limitations of original claim 40. Claim 41 has also been amended to change the word "is" to "comprises" in order to better define the scope of the invention. In canceling claim 40, Applicant notes that it is canceling the claim based upon the Examiner's position that canceled claim 40 and claim 27 of the '051 patent contain identical subject matter, and Applicant's position is that no claim scope is being surrendered by the canceling of claim 40. If the Examiner disagrees with this position or has any questions concerning this issue, she is strongly urged to contact the Attorneys for Applicant at her earliest convenience.

The Examiner rejected a series of claims under the judicially created doctrine of obviousness-type double patenting as being unpatentable. Claims 29-33 were thus rejected over claims 1-5 of the '051 patent. Claims 34-36 were rejected based upon claims 8-10 of the '051 patent; claims 37-39 were rejected based upon claims 21-23 of the '051 patent; and likewise claim 44 was rejected based upon claim 28 of the '051 patent. Additionally, claim 45 was rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 28 of the '051 patent in view of U.S. Patent No. 4,934,054, issued to Morozumi; claims 46-47 were rejected based upon claim 28 of the '051 patent in view of U.S. Patent No. 6,111,425, issued to Nelson; and claim 48 was also rejected based upon the '051 patent in view of U.S. Patent No. 3,456,346, issued to Snyder.

In response to all of the above-identified rejections, Applicant is submitting a terminal disclaimer with this Amendment and Reply, disclaiming the terminal part of any patent granted on the present application that would extend beyond the full statutory term, as shortened by any terminal disclaimer, of U.S. Patent No. 6,722,051. In making this disclaimer, Applicant does not disclaim any terminal part of any patent granted on the above identified patent application, prior to the full statutory term of U.S. Patent 6,722,051 as defined in 35 U.S.C. §§154-156 and 173, in the event that U.S. Patent 6,722,051 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 U.S.C. §154, prior to the full statutory term of U.S. Patent 6,722,051 as defined in 35 U.S.C. §§154-156 and 173, except for the separation of legal title stated above. Further, Applicant does not disclaim any terminal part of a patent granted on the present application that would extend beyond the present termination of U.S. Patent 6,722,051, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Applicant's right to extend the term of a patent granted on the above identified patent application to the extent provided by law.

In light of the amendments and terminal disclaimer discussed herein, Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1450. Should no proper payment be enclosed herewith, as by a check

being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1450. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1450.

Respectfully submitted,

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